

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

KINDRED HEALTH CARE, INC.,
d/b/a Vallhaven Care Center,

Defendant.

'07 DEC 21 PM 2:25

Civil Action No. **07-C-1142**

COMPLAINT
(Jury Trial Demand)

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of race, and to provide appropriate relief to Stella Loble, Rena Liggins, and other similarly-situated African-American employees of Kindred Healthcare, Inc., d/b/a Vallhaven Care Center ("Vallhaven"), who were adversely affected by such practices. As alleged with greater particularity below, Vallhaven violated, and continues to violate, Title VII by maintaining a policy and practice of limiting, segregating, or classifying employees in ways which deprive, or tend to deprive, those employees of employment opportunities or otherwise adversely affect their status as employees because of their race, by allowing residents to control the job assignments of caregivers based on the caregivers' race. Loble, Liggins, and other African-American employees of Vallhaven were adversely affected by this policy when they were involuntarily reassigned from one section of Vallhaven to another based on their race (Black/African-American).

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343,

and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and -6 (“Title VII”) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were, and are now being, committed within the jurisdiction of the United States District Court for the Eastern District of Wisconsin.

PARTIES

3. The plaintiff, the Equal Employment Opportunity Commission (“EEOC”), is the agency of the United States of America charged with administering, interpreting, and enforcing Title VII, and is expressly authorized to bring this action by Sections 706(f)(1) and (3) and 707 of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3) and -6.

4. At all relevant times, the defendant, Kindred Healthcare, Inc., d/b/a Vallhaven Care Center (“Vallhaven”), has continuously been a Delaware corporation doing business in the State of Wisconsin and the City of Neenah, and has continuously had at least 15 employees.

5. At all relevant times, Vallhaven has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).

STATEMENT OF CLAIMS

6. More than 30 days prior to the institution of this lawsuit, Stella Lobley filed a charge with the EEOC alleging violations of Title VII by Vallhaven. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least February 2006, Vallhaven has engaged in unlawful employment practices at its facility at 125 Byrd Street, Neenah, Wisconsin, in violation of Section 703(a) of Title

VII, 42 U.S.C. § 2000e-2(a), as follows: Vallhaven maintains a policy and practice of limiting, segregating, or classifying employees in ways which deprive, or tend to deprive, those employees of employment opportunities or otherwise adversely affect their status as employees because of their race, by allowing residents to control the job assignments of caregivers based on the caregivers' race. Stella Lobley and Rena Liggins, both of whom worked as certified nursing assistants at Vallhaven, were involuntarily reassigned from one section of Vallhaven to other sections because of their race (Black/African-American), at the request of certain Caucasian resident patients of Vallhaven.

8. The effect of the practices complained of in Paragraph 7 above has been to deprive Stella Lobley, Rena Liggins, and other similarly-situated African-American employees of Vallhaven of equal employment opportunities and otherwise adversely affect their status as employees because of their race.

9. The unlawful employment practices complained of in Paragraph 7 above were, and are, intentional.

10. The unlawful employment practices complained of in Paragraph 7 above were, and are, done with malice or with reckless indifference to the federally protected rights of Stella Lobley, Rena Liggins, and other similarly-situated African-American employees of Vallhaven who were adversely affected by Vallhaven's policy and practice of making work assignments based on race.

PRAYER FOR RELIEF

Wherefore, the EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Vallhaven and its officers, successors, and assigns, and all persons in active concert or participation with them, from limiting, segregating, or classifying any employee in any way which would deprive, or tend to deprive, that employee of

employment opportunities or otherwise adversely affect her status as an employee because of her race, and from engaging in any employment practice which discriminates on the basis of race.

B. Order Vallhaven to institute and carry out policies, practices, and programs which provide equal employment opportunities for African-Americans, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Vallhaven to make whole Stella Lobley, Rena Liggins, and other similarly-situated African-American employees of Vallhaven by providing appropriate backpay with pre-judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

G. Order Vallhaven to make whole Stella Lobley, Rena Liggins, and other similarly-situated African-American employees of Vallhaven, by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in Paragraph 7 above, in amounts to be determined at trial.

H. Order Vallhaven to make Stella Lobley, Rena Liggins, and other similarly-situated African-American employees of Vallhaven whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in Paragraph 7 above, including (but not limited to) emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

I. Order Vallhaven to pay Stella Lobley, Rena Liggins, and other similarly-situated African-American employees of Vallhaven punitive damages for its malicious and reckless conduct described in Paragraphs 7 above, in amounts to be determined at trial.

J. Grant such further relief as the Court deems necessary and proper in the public

interest.

K. Award the EEOC its costs of this action.

JURY TRIAL DEMAND

The EEOC requests a jury trial on all questions of fact raised by its complaint.

Ronald S. Cooper
General Counsel

James L. Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507

Dated: December 21, 2007

s/ John C. Hendrickson
John C. Hendrickson
Regional Attorney

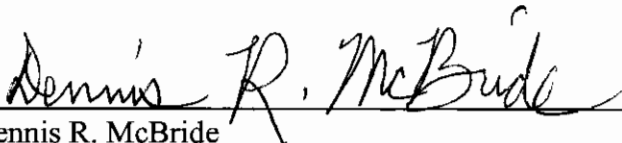
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office
500 West Madison Street - Suite 2800
Chicago, IL 60661
Telephone: (312) 886-5972
E-mail: john.hendrickson@eeoc.gov

Dated: December 21, 2007

s/ Jean P. Kamp
Jean P. Kamp
Associate Regional Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Chicago District Office
500 West Madison Street - Suite 2800
Chicago, IL 60661
Telephone: (312) 353-7719
E-mail: jean.kamp@eeoc.gov

Dated: December 21, 2007


Dennis R. McBride
Senior Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Milwaukee Area Office
310 West Wisconsin Avenue - Suite 800
Milwaukee, WI 53203-2292
Telephone: (414) 297-4188 Fax: (414) 297-3146
E-mail: dennis.mcbride@eeoc.gov